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8	BEFORE THE BOARD OF REGISTERED NURSING	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Accusation Against: Cas	e No. 2010-93
12	LAURA ANNE DUFFY 3720 W. Palo Alto	CCUSATION
13	Fresno, California 93711	
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15	Respondent.	
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17	Complainant alleges:	
18	<u>PARTIES</u>	
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her	
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),	
21	Department of Consumer Affairs.	
22	Registered Nurse License	
23	2. On or about August 31, 1990, the Board issued Registered Nurse License Number	
24	456262 to Laura Anne Duffy ("Respondent"). The registered nurse license was in full force and	
25	effect at all times relevant to the charges brought herein and will expire on January 31, 2010,	
26	unless renewed.	
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STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct . . . ,
- 7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

8. Code section 4060 states, in pertinent part:

No person shall possess any controlled substances, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor....

9. Health and Safety Code section 11173, subdivision (a) provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

11. "Percocet", a brand of oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

"Morphine" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

FIRST CAUSE FOR DISCIPLINE

(Obtained and Possessed Controlled Substances in Violation of Law)

12. Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (a), in that in or about May 2006, while licensed and/or on duty as a registered nurse at San Joaquin Valley Rehabilitation Hospital, Fresno, California, Respondent committed the following acts:

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- a. Respondent obtained the controlled substance Percocet by fraud, deceit, misrepresentation or subterfuge by taking the drugs from hospital supplies in violation of Health and Safety Code section 11173, subdivision (a).
- Respondent possessed the controlled substance Percocet in violation of Code section
 4060.
 - c. Respondent self-administered Percocet without lawful authority.

SECOND CAUSE FOR DISCIPLINE

(Falsify Patient and/or Hospital Records)

13. Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (e), in that Respondent falsified or made grossly incorrect, inconsistent, or unintelligible entries in the following hospital and patient records:

San Joaquin Valley Rehabilitation Hospital

Patient A#25353-01

a. On May 5, 2006, Respondent documented the removal of two (2) Percocet tablets each time at 9:50 a.m. and 3:00 p.m.; however, Respondent failed to document the administration or wastage of the Percocet tablets in the patient's Medication Administration Record or otherwise account for the disposition of the Percocet in any patient or hospital record.

Patient B#25398-01

- b. On May 20, 2006, Respondent documented the removal of four (4) Percocet tablets at 1:30 p.m. Respondent charted the administration of two (2) Percocet tablets at 5:00 p.m.; however, Respondent failed to document the administration or wastage of the remaining Percocet tablets in the patient's Medication Administration Record or otherwise account for the disposition of the Percocet in any patient or hospital record.
- c. On May 21, Respondent documented the removal of two (2) Percocet tablets, each time, at 7:30 a.m., 11:00 a.m., 2:30 p.m., and 6:30 p.m. Respondent charted in the patient's Medication Administration Record, the administration of two (2) Percocet tablets each time at 7:30 a.m., 2:30 p.m. and a late entry at 11:00 p.m.; however, Respondent failed to chart the

Accusation